

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

CHIEF HEARING OFFICER DIRECTIVE

DOCKET NOS. 2021-89-E and 2021-90-E - ORDER NO. 2021-85-H

JUNE 21, 2021

CHIEF HEARING OFFICER: David Butler

DOCKET DESCRIPTION:

Duke Energy Carolinas, LLC's 2021 Avoided Cost Proceeding Pursuant to S.C. Code Ann. Section 58-41-20(A)

Duke Energy Progress, LLC's 2021 Avoided Cost Proceeding Pursuant to S.C. Code Ann. Section 58-41-20(A)

MATTER UNDER CONSIDERATION:

Petition to Intervene of Pelzer Hydro Company, LLC ("Pelzer"), Aquenergy Systems, LLC ("Aquenergy") and Northbrook Carolina Hydro, LLC ("Northbrook") (collectively, the "Hydropower Petitioners")

CHIEF HEARING OFFICER'S ACTION:

This matter comes before the Chief Hearing Officer on the Petition to Intervene of the "Hydropower Petitioners." The Petition is timely filed, and no objections to the interventions have been filed in these Dockets.

After it has been determined that the Petition has been timely filed, the next question for the Commission is to determine whether or not the petitioning party has clear factual support or grounds for the proposed intervention. S.C. Regs. 103-825A(3) requires that a party making a Petition to Intervene in a matter pending before the SC Public Service Commission must:

set forth clearly and concisely:

- (a) The facts from which the nature of the petitioner's alleged right or interest can be determined;**
- (b) The grounds of the proposed intervention;**
- (c) The position of the petitioner in the proceeding.**

According to the Petition, the Hydropower Petitioners are owners and operators of multiple South Carolina hydroelectric facilities, and they seek to intervene to present information on "adequate cost recovery to prevent the permanent loss of small hydro as a resource." The Hydropower Petitioners, all operating QFs subject to the rates, tariffs, and PPAs at issue in these proceedings, state that they each have a substantial and specific economic interest in the development and operation of clean, reliable hydropower in South Carolina and, thus, in the Commission's consideration of the matters under the Act. In particular, the Hydropower Petitioners assert that they have an immediate interest in

making certain that the Commission “account[s] for differences in costs avoided based on the geographic location and resource type of a small power producer's qualifying small power production facility” when making findings or issuing any approvals. S.C. Code Ann. § 58-41-20(B)(3).

The Hydropower Petitioners note that they all have energy projects located and operating in South Carolina. And that they have qualifying facilities positioned in DEC’s and/or DEP’s systems that will be impacted by the decisions this Commission makes regarding the selection of an avoided cost methodology, calculation of the avoided cost, the term of length in years that the utility must offer for power purchase agreements to qualifying facilities, and the other terms and conditions this Commission finds necessary to adjudicate pursuant to the Act. They assert that all of these issues squarely impact the economics and feasibility of the Hydropower Petitioners projects, and that if the Commission adopts the recommendations as currently put forward by DEC and DEP without any further action relative to hydroelectric facilities, the Hydropower Petitioners will not be able to operate their facilities in a manner that is economically feasible. Such a result will make small hydro unsustainable and result in its eventual loss in this state, according to their Petition.

From these facts, this Hearing Officer holds that the Hydropower Petitioners have successfully satisfied the three criteria for intervention stated in the Regulation. Their interest in this matter can clearly be discerned, as can the grounds for the intervention, and their position in these proceedings.

In this case, the Petition to Intervene was timely filed and there are no objections to the intervention. Accordingly, the Petition to Intervene of the Hydropower Petitioners is hereby granted in these Dockets. This ends the Chief Hearing Officer’s Directive.